

State of Michigan

In the Supreme Court

Appeal from the Michigan Court of Appeals
Judges: Whitbeck, C.J., and Saad and O'Connell, JJ.

People of the State of Michigan,
Plaintiff-Appellant,

vs

Alphonzo Leon Wright,
Defendant-Appellee,

Supreme Court No. 130295

Court of Appeals No. 256475

Circuit Court No. 03-012650-FH

Brief on Appeal –Appellant

Oral Argument Requested

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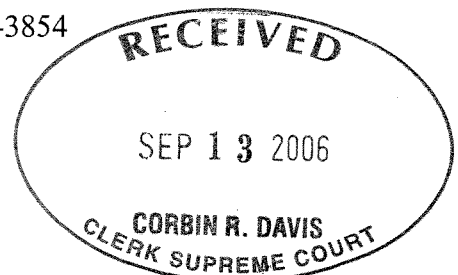


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Statement of jurisdiction

Pursuant to MCR 7.302, *et seq.*, the Genesee County Prosecutor, on behalf of the People, Plaintiff-Appellant, requested Michigan Supreme Court review of the Court of Appeals unpublished opinion in *People v Alphonzo Leon Wright*, CA 256475 (Nov 29, 2005), reversing defendant's conviction for keeping or maintaining a drug vehicle contrary to MCL 333.7405(1)(d). On July 19, 2006 this Court granted leave to appeal. *People v Wright*, 475 Mich 906 (2006).

Statement of questions presented

Issue I

Whether a defendant must “keep and maintain” a vehicle used for the purpose of selling a controlled substance “continuously for an appreciable period of time” as required by *People v Griffin*, 235 Mich App 27, 32-33 (1999), in order to sustain a conviction under MCL 333.7405(1)(d).

Plaintiff-appellant says: No

Defendant-appellee says: Yes

The Court of Appeals said: Yes

Issue II

Whether the evidence presented in this case was sufficient to sustain the defendant’s conviction for keeping or maintaining a drug vehicle.

Plaintiff-Appellant says: Yes

Defendant-Appellee says: No

The Court of Appeals said: No

Statement of facts

This is an appeal on leave granted to the People of the State of Michigan, plaintiff-appellant, seeking reversal of the Court of Appeals and reinstatement of defendant's conviction for maintaining a drug vehicle. *People v Wright*, 475 Mich 906 (2006). The Court has limited the issues for review as follows: "(1) whether a defendant must "keep or maintain" a vehicle used for the purpose of selling a controlled substance "continuously for an appreciable period of time" as required by *People v Griffin*, 235 Mich App 27, 32-33 (1999), in order to sustain a conviction under MCL 333.7405(1)(d); and (2) whether the evidence presented in this case was sufficient to sustain the defendant's conviction for keeping or maintaining a drug vehicle."

The Court of Appeals opinion in *People v Alphonzo Leon Wright*, CA 256475 (Nov. 29, 2005 *per curiam* unpublished) sets forth the facts as follows: [App 1a-5a]

"On May 22, 2003, Officer Rogelio Villarreal testified that he surveilled 130 Odette Street in order to execute a warrant.¹ Officer Villarreal was looking for a gray Cadillac. After approximately 40 minutes, Officer Villarreal saw a gray Cadillac drive up to 130 Odette Street. Wright exited the car and walked up to the house. Wright then returned to the car and drove away from the house. Officer Villarreal notified the other officers about the Cadillac's departure. Officer Randy Tolbert followed Officer Villarreal's directions and met up with the Cadillac approximately three blocks away. Officer Tolbert followed the Cadillac in his unmarked car while it made numerous turns throughout Flint. At one point, the Cadillac began to drive at an accelerated rate. The

¹ During argument on defendant's motion *in limine*, both the defense and prosecution referenced the fact that the defendant was originally wanted for a homicide investigation, and the warrant police were executing was an arrest warrant issued for defendant because

Cadillac continued driving at an accelerated rate through a housing complex and down a few more streets until it reached an intersection that Officer Lee Kahan was blocking. The Cadillac swerved around Officer Kahan's marked police car and continued speeding down several more streets, nearly hitting another vehicle. When the Cadillac finally stopped, Wright exited the vehicle and started running.

Officer Tolbert chased Wright on foot. He chased Wright onto a front porch, where Wright reached into the front of his pants, grabbed a clear bag containing 125 grams of cocaine, and threw the bag onto the porch. When Officer Tolbert realized that Wright was not reaching for a weapon, he took Wright into custody. Officer Tolbert collected the bag of cocaine from the porch. He also found and collected a digital scale on the ground in front of the Cadillac and a cellular phone plugged into the cigarette lighter outlet.”

[Tolbert also testified that after defendant’s arrest and on the way to the police station, defendant’ cell phone rang three times. Tolbert answered it and the three callers were asking for ”Al.”] [Trans. Nov. 18, 2003, 120, Appendix 16a]

“In his statement taken by agents from the Bureau of Alcohol, Tobacco, and Firearms (ATF), Wright explained that he ran from the police because he "was dirty." According to ATF Special Agent Todd Bowden, the term "dirty" is a common street term for an individual who is in possession of or caught with an item that they are not supposed to have, such as cocaine. Wright admitted that the cocaine was his.

Sergeant Mark Blough was qualified as an expert in the area of sale and distribution of cocaine in the vicinity of Flint. He testified that, based on the quantity of

of his suspected involvement with a homicide. However, Villarreal did not specify what type of warrant the police were executing while testifying.

cocaine Wright possessed, the scale, the fact that Wright had over \$100 in cash on him, and the lack of personal use paraphernalia, Wright possessed the cocaine with the intent to deliver it.

Wright filed a motion *in limine* with the trial court to exclude a three-hour video recorded interview, primarily regarding Wright's participation in a homicide. The interview took place after Wright was arrested for the instant charge but focused primarily on his involvement in a homicide. The trial court precluded the use of the videotape with respect to any matters other than this case. Defense counsel and the trial court endorsed the prosecution's offer to have Special Agent Bowden testify to Wright's admission to possession of cocaine in lieu of playing the videotape.

To explain how he became involved in the incident, Officer Kahan stated, "I heard one of the 800 cars puttin' [sic] out a chase or they were following a vehicle that had a potential homicide suspect in it." Out of the presence of the jury, defense counsel argued that Officer Kahan's reference to Wright as a homicide suspect was unduly prejudicial and violated the court's ruling on his motion *in limine*. Defense counsel then asked the trial court to declare a mistrial. The trial court ruled:

[C]learly, any reference to an alleged homicide or the [Wright] being a suspect is not relevant. However, the context of all the other testimony in this case, one reference to a homicide suspect with ... nothing more, no further evidence, no further mentioning by either a witness or the prosecutor, seems to be--to weigh against granting a motion for a mistrial. I don't find it to be unduly prejudicial, but I am offering to give a curative instruction.

Defense counsel then renewed her motion for a mistrial, which the trial court denied. The trial court gave the following curative instruction to the jury: "[Y]ou are

instructed to disregard any reference to an alleged homicide that you may have heard. It is totally irrelevant to any issues in this trial.”

The jury convicted Wright for possession with the intent to deliver between 50 and 450 grams of cocaine and maintaining a drug vehicle. [App 1a-3a]

The Court of Appeals reversed defendant’s conviction for maintaining a drug vehicle. In reversing the Court of Appeals held:

III. Sufficiency Of The Evidence; Drug Vehicle

A. Standard Of Review

Wright next argues that the prosecution did not present sufficient evidence to support his conviction for maintaining a drug vehicle because there was no evidence that he used the vehicle for the purpose of selling or keeping drugs. On de novo review of a claim of insufficient evidence, we view the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime were proved beyond a reasonable doubt. [*People v Fennell*, 260 Mich App 261, 270; 677 NW2d 66 (2004); *People v Hawkins*, 245 Mich App 439, 457; 628 NW2d 105 (2001).]

B. Maintaining A Drug Vehicle

To satisfy the elements of maintaining a drug vehicle the prosecution must show that (1) the defendant exercised authority or control over the vehicle, (2) for the purpose of making it available for keeping or selling proscribed drugs, and (3) he did so continuously for an appreciable period of time. [MCL 333.7405(1)(d); *Griffin, supra* at 32-33.]

While evidence presented at trial was sufficient to show that Wright controlled the vehicle in which he was observed, it did not show that he controlled the car for the purpose of keeping or selling drugs and it did not show he did so continuously for an appreciable period of time. "Circumstantial evidence and reasonable inferences drawn from it may be sufficient to establish the elements of a crime." [*Fennell, supra* at 270.] But "the fact that a piece of evidence has some tendency to make the existence of a fact more probable, or less probable, does not necessarily mean that the evidence would justify a reasonable juror in reasonably concluding the existence of that fact beyond a reasonable doubt." [*People v Hampton*, 407 Mich 354, 368; 285 NW2d 284 (1979).] Even viewing the evidence in the light most favorable to the prosecution, only two inferences could be drawn from the evidence presented: (1) because Wright was observed throwing down the bag of cocaine after he exited the vehicle, it can be inferred that on that one occasion he possessed cocaine while he was in that vehicle; and (2) because the scale was found on the ground in front of the vehicle, it can be inferred that on that one occasion he possessed a scale in the car. It would require piling inference upon inference to conclude that Wright had used that vehicle for an appreciable period of time for the purpose of keeping or selling proscribed drugs. Police neither observed Wright selling drugs out of his car nor found any drugs in the car after he was arrested. [FN12] Thus, we cannot conclude that the prosecution presented sufficient evidence to support Wright's maintaining a drug vehicle conviction.

FN12. Our review of relevant case law reveals that where a defendant has been convicted for maintaining a drug vehicle, or the related charge of maintaining a drug house, there has been a drug sales transaction or the police discovered clear evidence that drugs were being stored in the subject location. See e.g., *People v Custer*, 465 Mich 319; 630 NW2d 870 (2001); *People v Burgenmeyer*, 461 Mich 431; 606 NW2d 645 (2000);

People v McKinney, 258 Mich App 157; 670 NW2d 254 (2003); *People v Gonzalez*, 256 Mich App 212; 663 NW2d 499 (2003); *Griffin, supra* at 29; *People v Bartlett*, 231 Mich App 139; 585 NW2d 341 (1998).
[Appendix 11a-15a]

The trial court's jury instructions followed CJI2d 12.9 and did not include the *Griffin* requirement that defendant must "keep and maintain" a vehicle for the purpose of selling a controlled substance "continuously for an appreciable period of time." [Trans. Nov 19, 2003, Vol II p 257-258, Appendix 17a,18a]

Defendant did not object to the instruction, thus failing to preserve the issue.

Issue I

Whether a defendant must “keep and maintain” a vehicle used for the purpose of selling a controlled substance “continuously for an appreciable period of time” as required by *People v Griffin*, 235 Mich App 27, 32-33 (1999), in order to sustain a conviction under MCL 333.7405(1)(d).

Plaintiff-appellant says: No

Defendant-appellee says: Yes

The Court of Appeals said: Yes

Standard of Review

Statutory interpretation is a question of law that is reviewed by this Court de novo. *People v Schaefer*, 473 Mich 418, 427; 703 NW2d 774 (2005).

The Legislature has declared that in construing the Michigan Public Health Code that it “shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among those states that enact laws similar to it.” See MCL 333.7121, *infra*. Cases from another state are not binding precedent, but they can be persuasive in interpreting the same language. See Legal Information: How to Find it, How to Use It, Chapter 11, State Legislation and Administrative Law; see also *Cassady v Wheeler*, 224 NW2d 649, 652 (Iowa 1974) where the court notes that “[j]udicial interpretations in other jurisdictions of [the uniform act] are entitled to great weight, although neither are conclusive nor compulsory”).

Argument

With the proliferation of illegal drugs, federal and state legislation has been enacted making it unlawful to open or maintain any place for the purpose of manufacturing, distributing, or using any controlled substance. Statutes refer to these

places variously as controlled dangerous substance production facilities, structures resorted to by persons using controlled substances for the purpose of using, keeping or selling such substances, places used for keeping or distributing controlled substances, or buildings used for the unlawful keeping of controlled substances. See 24 Am Jur 2d Disorderly Houses, Sec. 5 and citations. In this regard Michigan enacted MCL 333.7405(1)(d), patterned after the Uniform Controlled Substances Act (1970, 1990, 1994). Forty-nine other States, the District of Columbia, and the Virgin Islands have adopted similar versions.

MCL 333.7405(1)(d) provides that a person:

shall not knowingly keep or maintain a ...vehicle ... that is frequented by persons using controlled substances in violation of this article for the purpose of using controlled substances, or that is used for keeping or selling controlled substances in violation of this article.

MCL 333.7121, Construction and application of article provides:

(1) This article applies to violations of law, seizures and forfeitures, injunctive proceedings, administrative proceedings, investigations which occur after its effective date.

(2) This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among those states which enact laws similar to it.

Michigan decisions consistently hold that the language of the statute identifies all the material elements to convey the Legislature's intent to criminalize the use of vehicles in illicit drug deals. Thus the words of a penal statute must be read in light of the evil sought to be corrected, *Hightower v Det Edison Co*, 262 Mich 1 (1933), and to effect the object of the law. MCL 750.2; *People v McIntosh*, 23 Mich App 412 (1970); *People v Jones*, 12 Mich App 293, 295 (1968).

When interpreting statutes, the primary goal of the appellate court is to ascertain and facilitate the Legislature's intent. *People v Stone Transport, Inc*, 241 Mich App 49, 50 (2000). In making its determination, the appellate courts look at the specific statutory language. *People v Borchard-Ruhland*, 460 Mich 278, 284 (1999). Where the language of the statute is clear, judicial construction is neither necessary nor permitted and the statute must be enforced as written. *Id.* But where reasonable minds can differ as to the meaning of the statute, judicial construction is appropriate. *People v Warren*, 462 Mich 415, 427 (2000). In such cases, courts must consider the object of the statute, the harm it is designed to remedy, and apply a reasonable construction that best accomplishes its purpose. *People v Adair*, 452 Mich 473, 479-480 (1996). The Legislature is presumed to be familiar with the rules of statutory construction and to act with knowledge of appellate court's statutory interpretation. *People v Higuera*, 244 Mich App 429, 436 (2001); *People v Ramsdell*, 230 Mich App 386, 392 (1998). On the other hand, where the terms of a statute provide no definitive answer, then courts may resort to extrinsic sources, including the ostensible object to be achieved and the legislative history. The court then must select the construction that comports most closely with the apparent intent of the legislature, with a view to promoting rather than defeating the general purpose of the statute and to avoid an interpretation that would lead to absurd consequences. *Huron-Clinton Metro Auth v Attorney General*, 146 Mich App 79 (1985); *People v Coronado*, 12 Cal 4th 145, 151 (1995). The rules of construction are subordinate to the primary rule that a statute must be interpreted consistent with legislative intent. *Estate of Banerjee*, 21 Cal 3d 527, 539 (1978).

There is nothing in a plain reading of MCL 333.7405(1)(d) indicating that the Legislature intended that a conviction therefor may only be had on proof that the defendant “keep and maintain” the vehicle used for the purpose of selling a controlled substance “continuously for an appreciable period of time” as required by *People v Griffin*, 235 Mich App 27, 33 (1999).

In 1998, the Court of Appeals decided *People v Bartlett*, 231 Mich App 139 (1998). The issue was the standard for determining whether the defendant “kept or maintained” the house. In *Bartlett* the defendant was arrested during the search of the house where he was living. He admitted he slept in a front room of the home, where police discovered a modified shotgun and various types of drug paraphernalia. He also acknowledged he was aware drugs were being sold from the house, but argued he had not witnessed any of the sales and that, while he also knew a gun was in the house, he did not know where it was kept. *Id.* 142. On appeal defendant took issue with the trial court’s jury instruction that it need only find he had “general control” over the house in order to be found he “kept or maintained” the house. *Id.* 143. He asserted that under *People v Hoek*, 169 Mich 87 (1912) the jury should have been instructed that a finding of “general supervisory control” was necessary to warrant his conviction. *Bartlett* at p 154. The Court of Appeals disagreed. Finding no satisfactory definition of “keep or maintain” in the statute, the court examined decisions of other jurisdictions under similar statutes and held that our statute required only that defendant had “the ability to exercise control or management over the house.” *Id.* 152. The court explained its broad holding by noting that “not all persons who have some control over a property” would necessarily be covered by the statute. *Id.*, at 152. The court rejected defendant’s argument that because

he did not participate in drug deals, the statute did not apply to him, holding as sufficient the evidence that he knew drugs were being sold in the house, and paid rent for the room in which the police found the shotgun and drug paraphernalia. The court thereafter concluded that the jury could infer “general control” over the property from the fact that the defendant paid rent. *Id.*, at 553.

In 1999, the Court of Appeals decided *People v Griffin*, 235 Mich App 27 (1999) where the defendant was arrested after spending the night at a girlfriend’s house. A police informant visited the house and had made various purchases of cocaine from defendant in the months before to his arrest. Defendant claimed he lived with his mother and was only an occasional visitor at the house. He argued that as a visitor, he could not be found to have “kept or maintained” the house. The Court of Appeals held, however, that “to keep or maintain” a drug house it is not necessary to own or reside at one, but simply to exercise authority or control over the property for purposes of making it available for keeping or selling ... drugs, and to do so continuously for an appreciable period. *Id.*, at 32. The Court held that “[T]his reading of the statute comports with other jurisdictions’ construction of the terms ‘keep or maintain’ as used in similar statutes.” citing *State v Fernandez*, 948 P2d 872 (Wash App, 1997)(unpublished), citing *United States v Clavis*, 956 F2d 1079, 1090 (CA 11, 1992); *Dawson v State*, 894 Pd 672, 678-679 (Alas App, 1995); *Meeks v State*, 872 P2d 936, 937-938 (Okla Crim App, 1994); *State v Allen*, 403 SE2d 907 (NC App, 1991) rev’d on other grounds, 418 SE2d 598, 607-608; *Barnes v State*, 339 SE2d 229 (Ga, 1986).

The people submit that the Court of Appeals' interpretation of MCL 333.7405(1)(d) is inconsistent with the legislative purpose of the statute and frustrates the Legislature's intent.

Decisions construing the terms "maintaining" or "opening" in reference to narcotics cases rely on earlier opinions, which construed those terms in statutes proscribing maintaining alcohol-related nuisances during Prohibition. These were places whose proprietors meant them to be used for consumption or sale of alcohol. Similarly, some state courts have held that their Health and Safety Code sections dealing with illicit drugs are aimed at places intended for a continuing course of use or distribution. See *People v Shoals*, 10 Cal Rptr 2d 296 (1992).

There is a split of authority regarding what constitutes a violation of the Uniform Act. In some states adopting statutes modeled after the Uniform Act, Courts have held that more than a single isolated instance of drug activity is required to support a conviction. For example, in *Barnes v State*, 339 SE2d 229 (Ga, 1986), the Georgia Supreme Court held that to support a conviction under Ga Code Ann § 16-13-41(a)(5) for maintaining a residence used for keeping or selling controlled substances, the evidence must be sufficient to support a finding of "something more" than an isolated single instance of the proscribed drug activity. The Court also held that, in determining the sufficiency of the evidence in this regard, each case must be judged according to its own unique facts and circumstances, emphasizing that there was no inflexible rule that evidence found only upon one single occasion could not be sufficient to show the crime of a continuing nature. To the same effect, the Maryland Court of Appeals in *Hunt v State*, 314 A2d 743 (Md App, 1974) held that the requirement of Maryland's criminal

common nuisance statute specific to illegal drug activities, [Md. Code art. 27, sec. 286(a)(5) (1957)] was that the drug activity be of a “continuing and recurring character.” Noting that this requirement did not preclude evidence found on only a single occasion from being sufficient to show this crime of a “continuing nature,” the court concluded that each case must be judged according to its own circumstances as to whether the illegal drug activities were of a “continuing or habitual” character.

In *Riding v State*, 527 NE2d 185 (Ind App, 1988) the Indiana Court of Appeals held that there was sufficient evidence that defendant’s room within a building was a common nuisance under Indiana Code sec 35-48-4-13(b), which made it a crime to maintain a place for the keeping or sale of drugs, where more than 800 grams of marijuana and a scale were both found in defendant’s room. The Court concluded that evidence of a “large quantity of marijuana and the presence of a scale employed in the weighing of marijuana” permitted the inference of the defendant’s common nuisance for the selling of marijuana.

In *State v Jones*, 388 NE2d 213 (NC App, 1990), the North Carolina Court of Appeals held that evidence in support of charges of trafficking, possession with intent to sell and deliver, and drug manufacturing also supported the charge of “maintaining” a dwelling for the purpose of keeping or selling a controlled substance, when it was combined with the defendant’s admission that she maintained and was the only resident of the apartment where the drugs were found. See also *People v Holland*, 158 Cal App 2d 583; 322 P2d 983, 986 (1958) (holding there must be “some purpose in the use of the place for the proscribed illegal conduct”).

While the above-referenced decisions may support the conclusion that the keeping or maintaining element of the Michigan drug house statute contemplates a continuing pattern of criminal behavior, beyond an isolated incident of possession or sale, it does not necessarily follow that they control the situation, as in the case at hand where a defendant Alphonzo Wright is driving his car containing cocaine with a street value of \$25,000.00 and a scale for weighing the same, and where after his arrest, his cell phone is receiving messages asking for him, but he cannot answer because he is on his way to jail after he had been arrested for PWID cocaine.

There is nothing in a plain reading of MCL 333.7405(1)(d) to suggest the Legislature intended to incorporate an “appreciable period of time” as an element of proof for a conviction. The Court of Appeals’ requirement that the prosecution show that the drug activity continued for an “appreciable period of time” before they can convict for violation of MCL 333.7405(1)(d) is an impermissible construction. MCL 333.7405(1)(d) identifies all the material elements necessary to convey the Legislature’s intent. That is, it states various ways in which the crime is committed, but nowhere does it state that the activity must be carried on for an “appreciable period of time.” Even the United States Supreme Court ordinarily resists reading words or elements into a statute that do not appear on its face. *Bates v United States*, 522 US 23 (1997). See also *Elezovic v Ford Motor Co*, 472 Mich 408 (2005).

This Court should overrule the Court of Appeals holding that a conviction for violation of MCL 333.7405(1)(a) cannot be sustained unless the defendant is shown to have been doing the proscribed conduct for an appreciable period of time.

In *People v Bartlett*, 231 Mich App 139 (1998), the Court of Appeals found that the defendant, who rented a room in which police officers located drug paraphernalia and a sawed-off shotgun during a raid, had some control over the first floor of the residence, where his bedroom was located for purposes of MCL 333.7405(1)(d) was properly convicted of maintaining a drug house. The Court held that an offense committed contrary to MCL 333.7405(1)(d) is established with evidence:

(A) That the defendant kept or maintained a dwelling or building;
(B) that the building kept or maintained by the defendant was used for keeping, selling or using controlled substances; (C) that the defendant knew that the building was used for keeping or selling controlled substances; and (D) that the defendant had some general control over the dwelling or building. *Bartlett, supra*, at 152.

Bartlett does not require proof that the prohibited conduct under MCL 333.7405(1)(d) occur for a particular period of time and is consistent with the statutory language.

Michigan Jury Instruction, CJI 2d 12.9, follows the *Bartlett* decision and does not require a time span to warrant a conviction. The Instruction was adopted by the Jury Instructions Committee in October, 2002 to reflect the elements of MCL 333.7405(1)(d).

- (1) The defendant is charged with the crime commonly known as knowingly maintaining or keeping a drug house. To prove this charge the prosecutor must prove each of the following elements beyond a reasonable doubt:
- (2) First, that the defendant knowingly kept or maintained a [building/ dwelling/vehicle/vessel/ (describe other place)].

[Select (a),(b), and/or (c) as appropriate.]

- (a) frequented by persons for the purpose of illegally using controlled substances.
- (b) Used for illegally keeping controlled substances.
- (c) Used for illegally selling controlled substances.

- (3) Third, that the defendant knew that the [building/dwelling/vehicle/ vessel/ (describe other place)] was frequented or used for such illegal purposes.

Here the Court of Appeals reversed defendant Wright's maintaining a vehicle conviction relying on *People v Griffin*, 235 Mich App 27 (1999) where the court examined MCL 333.7405(1)(d) and held, "that to 'keep or maintain' a drug house, it is not necessary to own or reside at one, but simply to exercise authority or control over the property for purposes of making it available to keeping or selling proscribed drugs and to do so continuously for an appreciable period." *Id.* at 32. The Court in *Griffin* said that its reading of our statute comports with other jurisdictions' construction of the terms "keep or maintain" as used in similar statutes. 235 Mich App at 33, n 2. However, the several cases referenced in *Griffin* do not support its holding that a conviction for keeping or maintaining a drug vehicle cannot stand in the absence of proof that the vehicle be maintained for "**an appreciable period of time.**" For example, in *State v Fernandez*, 89 Wash App 292, 301; 948 P2d 872 (1997), the defendant appealed a conviction for an offense equivalent to MCL 333.7405(1)(d). The Washington Court of Appeals held that "the term 'maintain' contemplates some degree of control over the premises and making it available for illegal use." *Fernandez* cites *United States v Clavis*, 956 F2d 1079, 1090 (CA 11, 1992) where the Court of Appeals for the 11th Circuit examined the federal version of maintaining a drug house, USC § 856(a)(1), and held that the elements are that the defendant (1) knowingly, (2) operated or maintained a place, (3) for the purpose of manufacturing, distributing or using any controlled substance.

In *Dawson v State*, 894 P2d 672 (Alas App, 1995) the Alaska Court of Appeals held that the Alaska statute for maintaining a drug house required proof of continuity and

precluded conviction for an isolated incident. However, the Court further found that the element of continuity was a question of fact based on the totality of the circumstances. The court said: “there is no inflexible rule that evidence found only on a single occasion cannot be sufficient to show a crime of a continuing nature.” *Id.* at 675-676.

In *Meeks v State*, 872 P2d 936, 938 (1994) the court held that under Oklahoma’s statute the offense of maintaining a drug house is proved with evidence that: “(1) substantial purpose is for the keeping, selling or using of drugs; and, (2) there must be shown more than a single, isolated incidence of the activity. In addition each case must be judged on its own facts.” However, the language of the court clearly shows that the question of continuity is a question of fact for the jury.

Griffin also cites *State v Allen*, 403 SE2d 907 (1991), rev’d on other grounds, 418 SE2d 225 (1992). In *Allen*, the defendant appealed a misdemeanor conviction of maintaining a drug house under North Carolina law. The court held that the elements are “(1) knowingly keeping or maintaining (2) a building, vehicle or other place (3) being resorted to by persons unlawfully using controlled substances, or being used for unlawfully keeping or selling controlled substances.” *Id.* However, the Court did not require the prosecutor to present evidence related to time.

Griffin cites *Barnes v State*, 339 SE2d 229 (1986) where the court held that while “the evidence must be sufficient to support a finding of something more than a single, isolated instance of the proscribed activity ... each case must be adjudged according to its own unique facts and circumstances, and there is no inflexible rule that evidence found only on a single occasion cannot be sufficient to show a crime of a continuing nature.”

Where a convicted defendant asserts there is insufficient evidence to support the judgment, the court's review is circumscribed. The court must review the whole record most favorably to the judgment to determine whether there is substantial evidence. That is, evidence that is reasonable, credible, and of solid value—from which a reasonable trier of fact could have made the requisite finding under the governing standard of proof. *In re Jerry M.*, 59 Cal App 4th 289, 298 (1997). The People urge that this Honorable Court will follow the holding in *Bartlett*. Michigan Court Rule 7.215(1) provides that:

A panel of the Court of Appeals must follow the rule of law established by a prior published decision of the Court of Appeals issued on or after November 1, 1990, that has not been reversed or modified by the Supreme Court, as provided in this rule.

The Court of Appeals was actually bound by the 1998 *Bartlett* decision because it was issued prior to the 1999 decision entered in *Griffin*. Under *Bartlett*, as argued above, a plain reading of MCL 333.7405(1)(d), does not require that the prosecutor present evidence defendant used the vehicle for illegal drug activity “continuously for an appreciable period of time.”

In this case, the prosecutor presented sufficient evidence warranting defendant's conviction for keeping or maintaining a drug vehicle under *Bartlett*.

In North Carolina, the determination of whether a building or other place issued for keeping or selling a controlled substance “will depend on the totality of the circumstances.” *State v Mitchell*, 442 SE2d 24, 30 (1994). Factors to be considered in determining whether a particular place is used to “keep or sell” controlled substances include: a large amount of cash being found in the place; a defendant admitting to selling controlled substances; and the place containing numerous items of drug paraphernalia

See *id.*, see also *State v Bright*, 337 SE2d 87-88 (1985) *disc. review denied*, 341 SE2d 31 (1986); *State v Frazier*, 542 SE2d 682 (2001).

This Honorable Court has not had occasion to interpret MCL 333.7505(1)(d) and our Public Health Code is taken almost verbatim from the Uniform Controlled Substances Act of 1970. The purpose of the Uniform Act was to obtain uniformity between the laws of the states and those of the federal government with respect to controlled substances. See 9 U.L.A. 188 and MCL 333.7121. While the interpretation placed on 9 ULA 493 is not binding on this Court, a review of the decisions from other states is instructive in light of the legislature's goal of achieving uniformity with states adopting the act. See e.g., *Cassady v Wheeler*, 224 NW2d 649, (Iowa 1974) (noting that "[j]udicial interpretations in other jurisdictions of [the uniform act] are entitled to great weight, although neither conclusive nor compulsory").

The people respectfully submit Court of Appeals decision in this case and in *Griffin* are contrary to the better reasoned decisions of the Delaware Supreme Court. For example, in reversing the defendant's conviction the Court in *Priest v State*, 879 A2d 575 (Del, 2005), held that "to sustain a finding of guilty on a Maintaining a Vehicle charge, the State must offer evidence of some affirmative activity by the defendant to utilize the vehicle to facilitate the possession, delivery, or use of controlled substances." Because the record contained no evidence that *Priest* engaged in any of these activities, his conviction was vacated. The Court cites *Loneragan v State*, 590 A2d 502 (Del, 1991) where the defendant challenged his Maintaining a Drug Vehicle conviction. *Loneragan* argued "a single incident of transporting drugs in a vehicle is insufficient to satisfy the

statutory requirement of maintaining, and that the State must establish a continuing illicit operation before liability will attach.” The court rejected the argument and held:

[I]t is our belief that the language of this section should be interpreted broadly to include a single incident. The obvious purpose of the statute is to discourage the use of motor vehicles in the transportation of drugs. That purpose is not served by exempting individual violations.

Based on the “obvious purpose of the statute,” the Court held that a single incident of transporting drugs in a vehicle, without any additional evidence tending to establish an ongoing pattern, can suffice to support a maintaining charge.

In *McNulty v State*, 655 A2d 1214 (Del, 1995) the court overturned a Maintaining a Vehicle conviction on grounds of insufficiency of evidence. On appeal the prosecution argued that because *McNulty’s* presence was critical to the drug deal’s success, the jury properly convicted him as an accomplice. The Court reversed finding that “evidence relating to *McNulty’s* exclusive ability to identify the buyer has no relevance to defendant’s having facilitated the commission of the offense” of knowingly maintaining a vehicle for drug dealing. Although the Court implicitly assumed the *Loneragan* “single incident” definition, the Court found that the fact that *McNulty* personally knew a party to the transaction, without more and whatever might be its effect on accomplice liability for a drug possession offense, could not “facilitate” the other party’s knowing maintenance of a vehicle for drug dealing.

In *Watson v State*, 755 A2d 390 (Del, 2000) the Delaware Court decided another sufficiency of the evidence claim. Defendant Watson was a passenger in an auto and argued that because the driver admitted ownership of the drugs, he (Watson) could not be convicted of maintaining a vehicle. After stating that “[p]roof of a single incident of

transporting drugs in a vehicle meets the statutory requirement” the Court held that proof of constructive possession is sufficient to warrant a conviction for Maintaining a Vehicle. In the companion case of *Fletcher v State*, 870 A2d 1191 (Del, 2005) the Court upheld a maintaining conviction. Distinguishing the *McNulty* case, *supra*, the Court found that both Fletcher’s control of the drugs and the conduct of the driver constituted “significant evidence of [Fletcher’s] direct involvement” in maintaining the vehicle for keeping a controlled substance. The Court explains that starting with *Loneragan*, each of the referenced cases, reaffirmed the principle that Section 4755 requires only that the State prove a single instance of possession or use of a controlled substance in connection with a vehicle. In those cases the critical bench mark for determining the sufficiency of evidence in a Maintaining a Vehicle prosecution has been the degree of the defendant’s control in connection with the possession of drugs. See also *State v Wheeler*, 2006 WL 337047 (Unpublished); *Thomas v State*, 886 A2d 1278 (Del, 2005) (Unpublished); *Hopkins v State*, 893 A2d 922 (Del, 2006); *State v Rhinehardt*, 1990 WL 9509 (Del. Super.) (Unpublished).

It is true that several of the reported decisions from other UCSA jurisdictions, referenced *supra*, including the Michigan Court of Appeals in *People v Griffin*, 235 Mich App 27 (1999) reject the “single occurrence” approach of Delaware. The people submit however, that the “single occurrence” rationale constitutes a more realistic approach in Michigan’s endeavor to stop illicit drug trafficking. In accord with the Delaware approach, this Court should adopt its general rule that **“the critical benchmark for determining the sufficiency of the evidence in a Maintaining a Vehicle prosecution has been the degree of the defendant’s control or use of the vehicle in connection**

with the possession of drugs.” The court further noted that **“the crucial inquiry [was] whether [the defendant] knew that he was using the car to facilitate ... [the] attempted drug deal.”** Thus the court held that to “sustain a finding of guilt on a maintaining a vehicle charge the state must offer some affirmative activity by the defendant to utilize the vehicle to facilitate the possession, delivery or use of controlled substances.” Defendant Wright’s conduct in this case comes within the purview of the Delaware approach and his conviction for violation of MCL 333.7405(1)(d) should be affirmed.

In this case, the trial court’s jury instructions for maintaining a drug vehicle were in accord with CJI2d 12.9 and did not include the *Griffin* requirement that the prosecution prove that the defendant “keep and maintain” the vehicle “continuously for an appreciable period of time.” [See Trans. Nov. 19, 2003, Vol II, 257-258, Appendix 17a, 18a] Defendant Wright did not object to the instruction, thereby failing to preserve an issue of instructional error.

In response to this Court’s issue “Whether a defendant must “keep and maintain” a vehicle used for the purpose of selling a controlled substance “continuously for an appreciable period of time” as required by *People v Griffin*, 235 Mich App 27, 32-33 (1999), in order to sustain a conviction under MCL 333.7405(1)(d)” the people submit that the answer is “No.”

Issue II

Whether the evidence presented in this case was sufficient to sustain the defendant's conviction for keeping or maintaining a drug vehicle.

Plaintiff-appellant says: Yes

Defendant-appellee says: No

The Court of Appeals said: No

Standard of review

Defendant's challenge to the sufficiency of the evidence is reviewed de novo in a light most favorable to the prosecution to determine whether there was sufficient evidence to justify a rational trier of fact in finding guilt beyond a reasonable doubt. *People v Tombs*, 447 Mich 446, 459 (2005); *People v Hardiman*, 466 Mich 417 (2002).

Argument

The language of MCL 333.7405(d) identifies all the material elements to convey the Legislature's intent to criminalize the use of vehicles in illicit drug deals. *Hightower v Det Edison Co*, 262 Mich 1 (1933).

The statute provides that a person "shall not knowingly keep or maintain a ... vehicle ... that is frequented by persons using controlled substances in violation of this article for the purpose of using controlled substances, or that is used for keeping or selling controlled substances in violation of this article." Viewed in the light most favorable to the prosecution, the evidence was sufficient to warrant the jury's conclusion that defendant used his car to keep or maintain \$25,000.00 worth of cocaine on the date of his arrest. The Court of Appeals viewed this case as an isolated incident insufficient to warrant a charge to the jury for keeping or maintaining a motor vehicle for possession with intent to deliver cocaine. Without citation of authority, the Court erroneously held

that defendant's conviction could not be upheld because to do so would violate the rule prohibiting "piling inference upon inference." [Appendix 14a] The Michigan Supreme Court however, just four years ago in *People v Hardiman*, 466 Mich 417 (2002) rejected the inference piling argument. The Court cites, 1A Wigmore, Evidence (Tiller rev), § 41, pp 1106, 1111, where it was stated in pertinent part:

There is no such orthodox rule; nor can there be. If there were, hardly a single trial could be adequately prosecuted. In these and innumerable daily instances we build inference upon inference, and yet no court (until very modern times) ever thought of forbidding it. All departments of reasoning, all scientific work, every day's life and every day's trials proceed upon such data. The judicial utterances that sanction the fallacious and impracticable limitation, originally put forward without authority must be taken as valid only for the particular evidentiary facts therein ruled upon.

Hardiman, at 425.

The rule set forth in *Hardiman* for reviewing sufficiency of the evidence is as follows:

Accordingly, when reviewing sufficiency of the evidence claims, courts should view all the evidence—whether direct or circumstantial—in a light most favorable to the prosecution to determine whether the prosecution sustained its burden. *It is for the trier of fact, not the appellate court, to determine what inferences may be fairly drawn from the evidence and to determine the weight to be accorded those inferences.* In compliance with MRE 401, we overrule the inference upon inference rule of *Atley* and its progeny. (emphasis added)

Hardiman, at 428.

In order to overcome the presumption of innocence accorded an accused in a criminal trial, the prosecution bears the burden of proving each essential element of the crime charged beyond a reasonable doubt. *In re Winship*, 397 US 358, 364 (1970). The critical inquiry on review of the sufficiency of the evidence to support a conviction is

“whether the record evidence could reasonably support a finding of guilty beyond a reasonable doubt.” *Jackson v Virginia*, 443 US 307, 318 (1979).

[T]his inquiry does not require a court to “ask itself whether *it* believes that the evidence at trial established guilt beyond a reasonable doubt.” Instead, the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements beyond a reasonable doubt. *Id.* at 318-19 (internal citation and footnote omitted). This “standard must be applied with explicit reference to the substantive elements of the criminal offense as defined by state law. *Id.* at 324 n. 16.

The appellate standard of review of the sufficiency of the evidence to support a conviction is the same whether the evidence presented at trial is direct or circumstantial. *State v Marshall*, 284 NW2d 592 (Wis, 1979).

The Wisconsin Supreme Court in *State v Poellinger*, 451 NW2d 752 (Wis, 1990) explains the reasonable doubt standard of review, the prosecution has the burden of proving every essential element of the crime charged beyond a reasonable doubt. The test is not whether the reviewing court or any members thereof are convinced of the defendant’s guilt beyond a reasonable doubt, but whether the reviewing court “... can conclude the trier of facts could, acting reasonably, be so convinced by the evidence it had a right to believe and accept as true” The Wisconsin Court further explained:

The credibility of the witnesses and the weight of the evidence are for the trier of fact. In reviewing the evidence to challenge a finding of fact, we view the evidence in the light most favorable to the finding. *Reasonable inferences drawn from the evidence can support a finding of fact and, if more than one reasonable inference can be drawn from the evidence, the inference which supports the finding is the one that must be adopted...*’
[emphasis added]

Stated another way, the appellate court must also accept any reasonable inference the jury may have drawn from the facts.

Here the Court of Appeals failed to apply this standard, and instead stated “Thus, we cannot conclude that the prosecution presented sufficient evidence to support Wright’s maintaining a drug vehicle conviction.” [Appendix 14a]

In weighing the evidence presented at trial, the jury could take into account matters of common knowledge and experience in the affairs of life. *State v Lossman*, 348 NW2d 159 (Wis, 1984). Whether the defendant has maintained a place or vehicle for purposes drug house/vehicle statutes is necessarily fact intensive, and the issue must be resolved on a case-by-case basis. In doing so, courts must be mindful of conditions under which the illicit drug operations are often conducted. See e.g., *United States v Morgan*, 117 F3d 849, rehearing denied, *cert* denied; *Jackson v United States*, 139 L Ed 2d 389, *cert* denied *Wright v United States*, 139 L Ed 2d 619.

In this case defendant Wright did not object to the jury instructions given pursuant to CJ12 12.8 and he did not move for a judgment of acquittal. [See Trans. Nov. 19, 2003, Vol II 257-258, Appendix 17a,18a] Accordingly, the standard of review is plain error. *Hainey v State*, 878 A2d 430, 433 (Del, 2005). Under the plain error standard of review, the error complained of must be so clearly prejudicial to substantial rights as to jeopardize the fairness and integrity of the trial process. *People v Bartlett*, 231 Mich App 139, 144 (1998). *Wainwright v State*, 504 A2d 1096, 1100 (Del, 1986).

A review of Michigan Supreme Court jurisprudence fails to disclose any case interpreting MCL 333.7405(1)(d). The Court of Appeals on the other hand in *People v Griffin*, 235 Mich App 27, 33 (1999), footnote 2 cites decisions from several other states construing identical or substantially similar statutory language. See also, Caner, Annotation, Validity Construction, and Application of State or local Law Prohibiting

Maintenance of Vehicle for Purpose of Keeping or Selling Controlled Substances, 31 ALR 5th 760 (1995); Annotation, Validity and Construction of State Statutes Criminalizing the Act of Permitting Real Property to be Used in Connection with Illegal Drug Activities, 24 ALR 5th 428 (1994). While the interpretation placed on the uniform act by other jurisdictions is not binding on the Michigan Supreme Court, a review of decisions from other states is instructive in light of the legislature's goal of achieving uniformity with states adopting the uniform act. MCL 333.7121; *Cassady v Wheeler*, 224 NW2d 649, 652 (Iowa 1974)

The people are aware that most, UCSA [9 ULA Sec. 402] jurisdictions, reject the single occurrence approach endorsed by the State of Delaware. In construing its version of maintaining a drug vehicle, Delaware requires only that the prosecution prove a single instance of possession or use of a controlled substance in connection with a vehicle. Under Delaware jurisprudence, the critical benchmark for determining the sufficiency of the evidence in a Maintaining a Vehicle prosecution has been the degree of the defendant's control or use of the vehicle in connection with the possession of drugs. In *Loneragan v State*, 590 A2d 502 (Del, 1991) Delaware Supreme Court considered the required scope of the defendant's "use" of a vehicle. The defendant challenged the sufficiency of the evidence underlying his conviction for Maintaining a Vehicle, arguing that a single incident of transporting drugs was insufficient to satisfy the statutory requirement of maintaining and that the prosecution must establish a continuing illicit operation. In rejecting the argument the Court held:

[I]t is our belief that the language of this section should be interpreted broadly to include a single incident. The obvious purpose of the statute is to discourage the use of motor vehicles in

the transportation of drugs. That purpose is not served by exempting individual violations.

Based on the “obvious purpose of the statute,” the Court held that a single incident of transporting drugs in a vehicle, without any additional evidence tending to establish an ongoing pattern, can suffice to support a maintaining charge.

The Delaware approach is more in accord with a realistic view of how the illicit drug culture operates and represents a construction the USCA of what the Legislature is trying to achieve in prohibiting use of vehicles in the drug trade.

In *Priest v State*, 879 A2d 575 (Del, 2005) the court examined Delaware’s maintaining a vehicle for keeping controlled substances statute. After examining the relevant “Maintaining a Vehicle” jurisprudence, the Court set out the general rule that “the critical benchmark for determining the sufficiency of the evidence in a Maintaining a Vehicle prosecution has been the degree of the defendant’s control *or use* of the vehicle in connection with the possession of drugs.” The Court also noted that “the crucial inquiry [was] whether [the defendant] knew that he was using the car to facilitate ... [the] attempted drug deal.” The Court held that to “sustain a finding of guilt on a Maintaining a Vehicle charge, the State must offer evidence of some affirmative activity by the defendant to utilize the vehicle to facilitate the possession, delivery, or use of a controlled substances”. *Id.* at 576

The Court of Appeals in this case affirmed defendant Wright’s conviction for possession with intent to deliver between 50 and 450 grams of cocaine contrary to MCL 333.7401(2)(a)(iii). The conviction was based on evidence that Officer Tolbert pursued defendant on foot after getting out of his car after the police chase. Tolbert pursued defendant onto a front porch, where defendant reached into the front of his pants, grabbed

a clear bag containing 125 grams of cocaine, and threw it onto the porch. Tolbert also collected a digital scale on the ground in front of defendant's car and a cell phone plugged into the cigarette lighter outlet. The Court of Appeals fails to mention that Tolbert also testified that after defendant's arrest and on the way to the police station, defendant's cell phone rang three times. Tolbert answered it and the three callers were asking for "Al." [Trans. Nov. 18, 2003 120, Appendix 16a] It is a fair inference that the three callers were asking for defendant Alphonzo Wright, a drug dealer whose impending business with them had been interrupted because he had just been arrested for possession with intent to deliver cocaine having a street value of over \$25,000.00. Defendant also admitted to an ATF agent the cocaine was his. The Court of Appeals observed that Sgt. Mark Blough was qualified as an expert in the area of sale and distribution of cocaine in the vicinity of Flint. Based on the quantity of cocaine defendant possessed, the scale, the fact that defendant had over \$100 in cash on him, and the lack of personal use paraphernalia, Sgt. Blough opined that defendant Wright possessed the cocaine with intent to deliver it. The Court of Appeals omitted Blough's testimony that the brick defendant threw down containing 125 grams of cocaine had a street value of \$25,000, and that that amount "would be way more than one person could use at one time." [See Vol I, 188, 193-194, Appendix 11a,12a] Experienced police officers may give their opinion that narcotics are held for the purpose of sale based on such matters as quantity, packaging, and normal use of an individual. See e.g., *People v Stimmage*, 202 Mich App 28 (1993); *People v Parra*, 82 Cal Rptr 2d 541 (4th Dist. 1999); *State v Collard*, 414 NW2d 733 (Minn App, 1987).

The Court of Appeals found that this evidence was sufficient to warrant defendant's conviction for possession with intent to deliver between 50 and 450 grams of cocaine. This same evidence supports the jury finding that defendant Wright maintained a drug vehicle. [Appendix 11a-14a]

The Court of Appeals decision fails to take into account the realities of the illicit drug culture. In Michigan, a drug dealer such as defendant "Al" [Alphonzo Wright] may not avoid conviction simply by arguing that this case involves only an isolated incident. The *Griffin* construction of MCL 333.7405(1)(d) is not in the best interest of the State of Michigan in the ongoing war against the illicit drug culture. Defendant Wright was properly convicted and sentenced for maintaining a drug vehicle. This Court should reinstate the same.

In this case, the prosecutor presented sufficient evidence warranting defendant's conviction for keeping or maintaining a drug vehicle under *Bartlett*. Even under *Griffin*, defendant's conviction must be affirmed because the question of whether he kept or maintained the vehicle for an appreciable period of time is a question of fact, and an isolated incident does not preclude conviction. *Dawson v State*, 894 P2d 672 (Alas App, 1995).

Defendant never disputed the sufficiency of evidence that he was transporting drugs in a vehicle. The prosecutor presented evidence that defendant continuously drove the vehicle from the point police first saw him until the point of his arrest. Defendant also possessed 125 grams of a substance containing cocaine in brick form and a digital scale. Expert witness Sgt. Mark Blough testified that this amount, having a street value of approximately \$25,000.00 "would be way more than one person could use at one time."

The evidence in this case of a large amount of drugs [125 grams of cocaine, with a street value of \$25,000.00], and drug paraphernalia [scale], coupled with the lack of personal drug use paraphernalia, as well as the three calls on defendant's cell phone while they were on the way to the police station asking for drug dealer "Al" [Alphonzo Wright] more than amply warranted defendant's conviction for keeping or maintaining a drug vehicle. Viewed in the light most favorable to the prosecution, the evidence sufficiently supported defendant's conviction. *Hardiman, supra*, at 5, 7]

A jury could infer that defendant had knowledge of the presence and character of the cocaine, given that he threw it down on a porch just prior to his arrest. An expert, Sgt. Blough, testified that in his opinion the cocaine thrown down by defendant that was for delivery rather than personal use. Defendant's admitted possession of 125 grams of cocaine could easily be broken down into sale amounts. Defendant also had \$100 on him, but did not have drug use paraphernalia. Shortly after defendant's arrest, a scale for weighing cocaine was found discarded by defendant's car. Also, while on the way to jail, defendant's cell phone rang three times with the callers asking for "Al." It is a fair inference that the three callers were asking for Alphonzo Wright who had just been arrested for possession of cocaine having a street value of more than \$25,000.00.

This Court must accept any reasonable inference the jury may have drawn from the facts. *State v Poellinger, supra*, at 506-507.

Deferring to the jury's superior position to judge witness credibility and viewing the evidence in a light most favorable to the prosecution, this Court should conclude, contrary to the decision of the Court of Appeals, that sufficient evidence was presented to support the finding that defendant violated MCL 333.7405(1)(d).

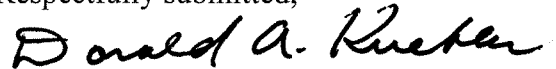
In the alternative, the people submit that under the more realistic approach of the State of Delaware, *Priest v State*, 879 A2d 575 (Del. 2005), there was more than ample evidence for a rational fact finder, viewing the evidence in the light most favorable to the prosecution, to find defendant guilty beyond a reasonable doubt of violation of MCL 333.7405(1)(d). This Court should reach the same conclusion and reinstate defendant's conviction and sentence.

Relief

Wherefore, the People pray that this Honorable Court will reverse the Court of Appeals below and reinstate defendant's conviction and sentence for maintaining a drug vehicle.

Date: September 11, 2006

Respectfully submitted,



Donald A. Kuebler P16282

Chief, Research Training and Appeals